



THE CITY OF NEW YORK
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January 12, 2024

VIA ECF

Honorable Dale E. Ho
United States District Judge
Southern District of New York
40 Foley Square
New York, NY 10007

Re: *Bryan Abreau v. New York City Police Department et al.*,
23-CV-3814 (DEH)

Your Honor:

I am an Assistant Corporation Counsel in the office of the Honorable Sylvia O. Hinds-Radix, representing the City of New York (hereinafter “Defendant City”) in the above-referenced matter. Defendant City writes to respectfully request an adjournment of the Initial Conference currently scheduled for January 17, 2024 to a date and time convenient to the Court and that Your Honor extend the deadline to file a case management plan until after the parties engage in PLAN Mediation pursuant to Local Rule 83.10 (hereinafter “the PLAN”). Plaintiff’s Counsel, James M. Timko, Esq., consents to these requests.

On May 5, 2023, plaintiff Bryan Abreu filed his Complaint alleging that, on May 7, 2020, John Doe officers 1 and 2 aggressively approached Plaintiff while on a bus, cursed at him, and demanded he lower his facemask before the Doe officers left the bus. *See* Civil Docket Entry No. 1. Plaintiff now brings claims pursuant to 42 U.S.C. § 1983 alleging, *inter alia*, unlawful search, seizure, and imprisonment. *Id.*

On May 8, 2023 Notice of Participation in Local Rule 83. 10 (formerly the Section 1983 PLAN) was filed on the docket. *See* Civil Docket Entry No. 4. On September 20, 2023 Plaintiff filed proof of service of the City of New York on September 20, 2023 indicating that the City was served on September 12, 2023. *See* Civil Docket Entry No. 12. On November 3, 2023 an initial conference was scheduled for January 17, 2024 and parties were ordered to file a proposed case management plan by January 10, 2024. *See* Civil Docket Entry No. 17. On January 11, 2023, after the parties failed to file the case management plan, the Court ordered the parties to file a case management plan by January 12, 2024. *See* Civil Docket Entry No. 18.

Nonetheless, the parties now request an adjournment of the January 17, 2024 initial conference and that they be relieved of their obligation to submit a case management plan. As an initial matter, the undersigned apologizes for failing to comply with the January 10, 2024 deadline. The undersigned was on trial in the matter of *Marcelino Castro v. Janet Smith*, 16 Civ. 8147, in front of the Honorable Jessica G. L. Clarke until the afternoon of January 11, 2024¹.

Further, as this matter has been designated for participation in the PLAN, the parties would like an opportunity to utilize the deadlines contained therein and file a case management plan in the event that this matter cannot be resolved via mediation. Furthermore, although the undersigned has provided counsel for Plaintiff with PLAN releases for his client's execution, based on recent communications, Counsel for Plaintiff has indicated that he is waiting for his client to execute those releases and provide them to counsel. These releases are needed so that defendant City can meaningfully respond to the Complaint and participate in discovery

Accordingly, and with plaintiff's consent, defendant City respectfully requests an adjournment of the Initial Conference currently scheduled for January 17, 2024 and that Your Honor extend the deadline to file a case management plan until after the parties engage in PLAN Mediation.

Thank you for your consideration herein.

Respectfully submitted,

/s/ KellyAnne Holohan
KellyAnne Holohan
Assistant Corporation Counsel
Special Federal Litigation Division

cc: All Counsel of Record (By ECF)

Application **GRANTED**. The initial pre-trial conference and deadline to submit a proposed case management plan are **ADJOURNED**, sine die, so the parties may participate in mediation. Within seven days of any mediation, the parties shall file a letter stating that they resolved the matter at mediation or, if not, proposing next steps in this litigation. So Ordered.



Dale E. Ho
United States District Judge
Dated: January 16, 2024
New York, New York

¹ In addition, the undersigned is scheduled to be out of the office the week of January 15, 2024.